



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 31, 1993

Ms. Detra G. Hill
Assistant City Attorney
Supervisor, Criminal Law and Police Division
City Hall
Dallas, Texas 75201

OR93-094

Dear Ms. Hill:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), Government Code chapter 552.¹ We assigned your request ID# 22320.

The City of Dallas (the "city") has received a request for a certain policeman's "behavioral cause" investigation. You object to release of the information under section 552.101 of the act in conjunction with section 611.002 of the Health and Safety Code.

Section 552.101 of the act excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 611.002 of the Health and Safety Code makes confidential the records prepared by licensed psychologists², among others, and provides in pertinent part:

(a) Communications between a patient and a professional, and records of the identity, diagnosis, evaluation, or treatment of a patient that are created or maintained by a professional, are confidential.

¹We note that the Seventy-Third Legislature repealed V.T.C.S. article 6252-17a. Acts 1993, 73d Leg., ch. 268, § 46. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

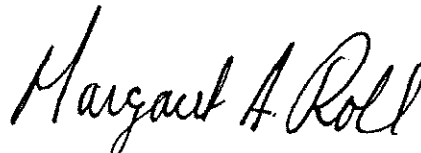
²Section 611.001 of the Health and Safety Code defines "professional" in part as "a person licensed or certified by this state to diagnose, evaluate, or treat any mental or emotional condition or disorder."

The purpose of this provision is to protect the patient or client against an invasion of privacy. Open Records Decision No. 565 (1990) at 3 (construing section 611.002's predecessor, section 2(a), article 5561h, V.T.C.S). Section 611.004 of the Health and Safety Code provides for disclosure of information made confidential by section 611.002 to certain persons.

You advise us that a "behavioral cause" investigation is a document prepared by a licensed psychologist. Accordingly, the requested information is made confidential by section 611.002. Because the exceptions to confidentiality set forth in section 611.004 are inapplicable here, we conclude that the requested information must be withheld in its entirety under section 552.101 of the act.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,

A handwritten signature in black ink that reads "Margaret A. Roll". The signature is written in a cursive, flowing style.

Margaret A. Roll
Assistant Attorney General
Open Government Section

MAR/GCK/rho

Ref.: ID# 22320
ID# 22375

cc: Mr. Jack Means, President
Dallas Police Patrolmen's Union
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1414 North Washington
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